

ARTICLE APPEARED
ON PAGE A-16

NEW YORK TIMES
1 OCTOBER 1980

Draft Study Says President Showed Poor Judgment Over Brother's Acts

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Special to The New York Times

WASHINGTON, Sept. 30 — The staff of the special Senate subcommittee investigating Billy Carter's dealings with Libya has concluded that President Carter showed poor judgment in not explicitly disassociating himself and his Administration from his brother's activities.

The conclusion was contained in a preliminary draft of the subcommittee's report to the Senate, which is to be submitted Thursday.

The draft, prepared by staff lawyers, has not been approved by the nine Senators on the subcommittee. Several of the Senators said today that, while the wording in the draft would probably be changed, the gist of it would probably not change.

"The President should have either issued a public statement or sent a private message to the Libyan Government, or both, that Billy Carter did not represent the United States and that the Libyans should not expect to gain any influence in the United States by cultivating their relationship with him," the draft report states. Portions of the preliminary report were made available to The New York Times by a Senate staff member.

Complaint About Disclosure

The White House issued a statement today complaining that the press had obtained copies of the draft report. The statement said that no one in the White House had seen the report and, therefore, there could be no specific comment. However, it did say that "after-the-fact opinions may differ on judgmental issues."

The White House also released a letter from the President's special counsel, Alfred H. Moses, to Philip W. Tone, the subcommittee counsel, in which Mr. Moses responded to nine questions about the Billy Carter matter. The panel decided last week to have the President's staff answer the questions, rather than to interrogate the President directly.

Mr. Moses's letter added no significant new information to the material in a statement on the Billy Carter affair that the President made to the Senate last month.

Mr. Moses wrote that the President had not made a private statement or a public announcement disassociating himself from his brother's activities because he

"considered Billy Carter's trips to Libya to be strictly private visits involving no governmental function or purpose." The letter also asserted, as the President has said many times, that "we had no control over what Billy Carter said or did."

Among the other conclusions in the draft report are these:

¶ Zbigniew Brzezinski, the President's national security adviser, and Benjamin R. Civiletti, the Attorney General, seemed more interested in protecting Mr. Carter from political embarrassment than in serving the best interests of the nation's foreign policy or law enforcement.

¶ The career officials in the Justice Department who investigated Billy Carter under the Foreign Agents Registration Act performed their task "honestly and conscientiously."

¶ Billy Carter's conduct was "contrary to the interests of the President and the United States and merits condemnation."

Action Called Unreasonable

The staff document states that it was unreasonable for the President to have used his brother as an intermediary to set up a meeting last November at which Mr. Brzezinski asked Ali A. el-Houderi, the Libyan representative here, for help in obtaining the release of the American hostages in Iran.

The sharpest criticism in the draft report is leveled at Mr. Brzezinski and Mr. Civiletti.

Mr. Brzezinski, it says, risked compromising important intelligence sources when he telephoned Billy Carter last spring to urge him to break off his financial ties with Libya. The call was based on highly classified information.

The Attorney General, according to the draft report, made a mistake by withholding from investigators with top-secret security clearance similar intelligence information he had obtained. Mr. Civiletti's action, the report states, delayed the investigation unnecessarily.

The staff found no fault with Mr. Civiletti's informing the President about the case, but he should not, the lawyers declared, have told the President that his brother would not be prosecuted if he registered as a foreign agent.